



DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Availability of Uniform National Discharge Standards (UNDS) for Vessels of the Armed Forces—Phase III Batch Two

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment, Department of Defense (DoD).

ACTION: Notice of availability.

SUMMARY: DoD has developed internal regulations on the design, construction, installation, and use of marine pollution control devices (MCPDs) to meet performance standards for 11 discharges incidental to the normal operation of a vessel of the Armed Forces into the navigable waters of the United States, the territorial seas, and the contiguous zone, and is making them publicly available.

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SUPPLEMENTARY INFORMATION: Section 312 of the Clean Water Act (CWA), as amended by Section 325 of the National Defense Authorization Act of 1996, requires the Environmental Protection Agency (EPA) and DoD to develop Uniform National Discharge Standards (UNDS) to control certain discharges incidental to the normal operation of a vessel of the Armed Forces. The EPA and DoD have already issued required joint rules (64 FR 25126 (May 10, 1999) and 85 FR 43465 (July 17, 2020), 40 CFR part 1700). This notice announces that DoD is also issuing a DoD-only internal regulation as part of this requirement. Although issued by DoD alone, the regulation will apply (by agreement with the Department of Homeland Security) not only to DoD but

also to the U.S. Coast Guard (at all times, including when it is a Service in the Department of Homeland Security).

Section 312(n)(4) of the CWA requires DoD, in consultation with EPA and the Secretary of the Department in which the U.S. Coast Guard is operating, to promulgate regulations governing the design, construction, installation, and use of MPCDs necessary to meet the discharge performance standards established in the EPA-DoD joint rules. The DoD internal regulations are issued under the authority of the Secretary in DoD Manual 4715.06, Volume 4, “Regulations on Vessels Owned or Operated by the Department of Defense: Discharges Incidental to Normal Operations,” which can be found at:

https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/471506_vol4.PDF.

There is no notice and comment requirement for the DoD internal regulations because they are internal to the Department and to the Coast Guard and otherwise exempt by 5 U.S.C. 553 (a)(1) and (2). Furthermore, EPA and DoD provided for notice and comment during the promulgation of the joint EPA-DoD regulations, as required by the CWA. Because EPA and DoD determined that the joint EPA-DoD regulations, once finalized, would have federalism implications, they had several rounds of consultations with state and local governments during the promulgation of the joint EPA-DoD regulations, as described in the final rule at 85 FR 43465, July 17, 2020.

Dated: January 4, 2023.

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[FR Doc. 2023-00191 Filed: 1/9/2023 8:45 am; Publication Date: 1/10/2023]